

DISCOURSE

ON

THE INTEGRITY OF THE LEGAL CHARACTER:

DELIVERED BEFORE

THE LAW ACADEMY OF PHILADELPHIA.

BY JOB R. TYSON, ESQ.

One of the Vice-Provosts.

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PHILADELPHIA, Oct. 24th, 1839.

DEAR SIR,—We have great pleasure in communicating to you the subjoined resolution, unanimously adopted by the Law Academy of this City, at a meeting held on Wednesday, the 23d inst.

“*Resolved*, That the thanks of the Academy be presented to JOB R. TYSON, Esq. for the appropriate and able Discourse delivered by him last evening; and that a copy be requested for publication.”

Indulging the hope that the wishes of the Academy may be gratified,

We remain, with great respect,

Your friends and obedient serv'ts,

JOHN PHILIPS MONTGOMERY,
THOMAS B. DRINKER,
EDWARD HOPPER,

JOB R. TYSON, Esq.

Committee.

GENTLEMEN,—Your kind note is received, communicating the unanimous wish of the Law Academy to have a copy of my Discourse for publication. In reply to so flattering a request, I cannot hesitate to place the MS. at their disposal.

With sentiments of personal regard,

I am, gentlemen, your friend, &c.

J. R. TYSON,

S. W. Corner Prune and Fourth Sts.

24th Oct. '39.

JOHN PHILIPS MONTGOMERY,
THOMAS B. DRINKER, and
EDWARD HOPPER, Esquires,

Committee.



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DISCOURSE.

Gentlemen of the Law Academy:—

It is natural to feel a deep solicitude in the repute of a profession, which we have chosen as the business of our lives. The subject is interesting, because it powerfully appeals to us as a common sentiment, that it is our duty, as far as we are able, to extend its usefulness and enhance its estimation.—While the study of the law is highly esteemed as an elevated science, there are, perhaps, few objects against which popular prejudice has been so unsparingly directed, as the legal profession. All admit the exalting and ennobling influences of historical and legal disquisitions—of researches into the existence and effects of law upon communities and states—and yet, the class of men whose peculiar province it is to explore and trace the rise and fall of institutions and nations, seem to be regarded, by common consent, as a standing theme of alternate jest and reproach.

With some well-meaning and intelligent persons an honest lawyer is a paradox. He is accused of a cold and avaricious selfishness, and supposed to be intent upon stirring up the passions of the multitude, to their degradation and ruin, from the sordid motive of pecuniary gain. Many impute to him an absorbing ambition for the honours, as well as the emoluments of life. He is represented, in fine, as a great spider surrounded by the meshes of the web he has

woven, and inveigling all objects into its entangling fibres. Among this class, every instance of deviation from right and honour, is treasured up as a substantive charge against the whole fraternity.

It cannot be doubted, that some cause exists for a feeling, which, if it does not pervade all classes of society, has at least a very diffusive prevalence. As every rank in life, from the highest to perhaps the meanest, has contributed recruits to the Bar, and the light and shade of each may be seen reflected from its surface, so no one department is answerable for its errors. In other pursuits, the temptations to indirection may be equally potent and insidious; but the lawyer, from the publicity of his path, is more frequently subjected to suspicion, and his lapses are sooner and more generally known. Let a physician resort to the little arts of empiricism, let a merchant falsify or embezzle, let a tradesman keep false books and aid his scheme of deception by duplicity and falsehood;—in neither case, are mankind so unjust as to charge his crime upon the members of his body, or attribute to his peculiar vocation, an influence unfavourable to moral virtue. The character of the offender is lost in the consideration of the offence, and justice is satisfied with punishing the delinquent without reference to his class.

But censorious and unjust as may be a part of the public in this wholesale condemnation, it cannot be questioned that the severity is not wholly destitute of reason. Many bad men, wearing the panoply of the profession, have been enabled to perpetrate their deeds under its sanction. The studies of the lawyer imply an intimate acquaintance with the principles of justice; and the world will hold him to a strict account for undermining the corner stone of his temple; for sinning against the lights of that knowledge which he especially ought to hold in regard and veneration. The

high trusts and sacred confidences which he violates, in departing from the plain path of integrity, is an ingredient in his error which distinguishes it from the mass of moral delinquency. Men are prone to regard the abuses of trust and the betrayal of confidence, with sentiments of peculiar disgust and aversion. Nor should it be forgotten, that the secrecy with which cheats may be conducted, forms a powerful reason why the detected culprit should be visited by a signal punishment.

This tendency to censure in the popular mind, may prove a wholesome corrective with bad men, who, if they are not influenced by higher motives, may reflect that they involve their fellow members in their disgrace. It should bind together "the good men and true" of the profession, like the Hundredors in the olden times of England, who, being held responsible for the conduct of each other, made hue and cry after a delinquent, with the view of screening themselves from suspicion, and the Hundred from punishment. The dishonoured lawyer must entertain a strange idea of the responsibilities of professional life, and interpret still more strangely the declaration of Coke, that every man owes a debt to his profession. Sir William Jones thought that if he did nothing more than introduce to the notice of the English lawyer, the great work of Pothier, he would go far towards discharging this obligation. Amid the absorbing cares and worrying vexations of professional duty, it must happen, in the majority of cases, that there is little time and less inclination or ability, for the composition of a treatise which would not be a positive incumbrance to the lawyer's library. But all have it in their power to leave to their fellow members and successors, the valuable inheritance of an honoured and unspotted name.

This reflection will receive additional force, when we take into view the delicate functions and high responsibili-

ties of the legal profession. Waiving, for the present, the consideration of those manifold and peculiar private duties, each big with importance, that every counsel may be called upon to discharge, the political and social influences of the body are great, diffusive and permanent. In all countries the firmest impediment to the encroachments of arbitrary power, is to be found in an enlightened, virtuous and independent Bar. They are the sentinels who sound the alarm at the approach of an enemy to constitutional liberty; for it is not amid the tyranny of despotic rule or in the strife and tumult of anarchy, that the expounder of the laws can find a birth-place or a home. The noble conduct of Sir Edward Coke, in resisting the disgraceful servility of a powerful court and the tyranny of a capricious monarch, is a memorable illustration of the value of the lawyer in perilous times, and a striking example of moral intrepidity and personal firmness.* In the reign of Louis XIV., and the regency of Orleans, that great lawyer, D'Aguesseau, rescued unhappy France, by his patriotism and courage, from the intrigues of ambitious favourites, the corruptions of the tribunals, and the stupendous and dazzling projects of the infamous John Law. The annals of juridical biography, over the world, teem with similar examples.

The lawyer exists, and can exist only, in the genial atmosphere of freedom. It is from him especially, that traditional errors and practical abuses must find a corrective. Reform and improvement, under his auspices, hope for stability and progress. But he stands, not only as a sentinel against the inroads of a political despot, and the scourge of public abuses, but he is the shield of private injuries and the assertor of legal retribution. He is interposed between the corrupt, incompetent and erring judge, and the wronged and

* Vide Note 1.

trembling suitor. The avenger of the innocent, he visits upon the wrong-doer the penalties of the law, and protects the weak and defenceless from the overbearing hand of oppression and power.

It is not necessary to remind such an assembly as this, of the position assumed by the legal profession at the darkest period of our political history, when tyranny wore the guise of a necessary tax for the public good. Who but lawyers could have roused the country to the vindication of rights merely speculative and theoretical—rights affecting abstract principle, and wholly unfelt in curtailing the happiness and enjoyments of the people? The voice of Constitutional liberty, the inheritance of Britons on both sides of the Atlantic, was heard from every bar of the Colonies; and an union, the most wonderful and instantaneous, was the result. The bickerings of private jealousy, the rancour of party spirit, the rival prejudices of distant colonies, were at once extinguished or disappeared; or united their angry forces to answer those eloquent appeals which were made to the spirit of national independence. Let it not be forgotten in the tale of our country's history, that those same lawyers who preached free principles to the people—the Dickensons, Adamases and Lees of those days,—when the flame of war converted the council chamber into a camp, they valiantly asserted the sincerity of their patriotism by offering to seal their doctrines with their blood.

But that science which may thus confer blessings on society, and ennoble its professors, is capable of the grossest perversion. Bolingbroke does only justice to the legal profession, when he portrays it as being, “in its nature, the noblest and most beneficial to mankind; in its abuse and debasement, the most sordid and pernicious.” It was in this state of depression on the decline of Roman jurisprudence, during the latter and darker period of the empire. That

noble art, which had been vindicated for so long a period by the exalted wisdom and pure integrity of its members, sustained the most pitiable declension which could befall an honourable pursuit. "It had fallen," says Gibbon, in his *Decline and Fall*, "into the hands of freedmen and plebeians, who, with cunning, rather than skill, exercised a sordid and pernicious trade. Some of them procured admittance into families for the purpose of fomenting differences, of encouraging suits, and of preparing a harvest of gain for themselves and their brethren. Others, recluse in their chambers, maintained the dignity of legal professors, by furnishing a rich client with subtleties to confound the plainest truths, and with arguments to colour the most unjustifiable pretensions. The splendid and popular class was composed of the advocates, who filled the forum with the sound of their turgid and loquacious rhetoric. Careless of favour and of justice, they are described, for the most part, as ignorant and rapacious guides, who conducted their clients through a maze of expense, of delay, and of disappointment."

It cannot be denied, in our own day, that while many practice the law as become the votaries of an elevated science, others degrade it into a pernicious and *driving trade*. It is indifferent to these men what may be the merits of a controversy, or which side they espouse; they ignobly pervert their oath of office, which enjoins fidelity to the interests of the client, into a pretext for sheltering him from the condign punishment of justice and law. Like Major Dalgetty, they are ever willing to fight on the *eligible* side; and exclaim in the base spirit of that mercenary soldier,

"With pleas of right let statesmen vex their head,
 "Battle 's my business, and my guerdon bread;
 "And with the sordid Switzer, I can say
 "The best of causes is the best of pay."

The little arts of chicanery and falsehood, exciting differences, magnifying trivial offences, blurring the reputations of upright men;—in short, gaining an ignominious livelihood by preying upon the ignorant and poor, and plundering the weak and the rich—are malversations which have, in some instances, disgraced the exercise of our profession.

How are we to guard against the continuance of a system so fraught with public and private mischief, so full of infamy to the country, of perpetual and ineffaceable disgrace to ourselves? An obvious reply to this question, demands a higher aim in the qualifications to membership—a longer period of study,—and a loftier standard of mental and moral attainment. These requisites would certainly produce a beneficial influence, since candidates are admitted to practice whose moral training and want of intellectual fitness, instead of conferring honour upon the Bar, have only added to its odium and contempt. The acquisition of a mechanical trade, requires an apprenticeship, omitting the item of literary preparation, during as long a period as the study of the laws of the land. If the means to improve and exalt the character of the Bar be *confined* to augmented strictness in the admission to membership, it is feared that it will advance but slowly and partially the work of reform. It might insure to the public and the profession, more cultivated talents and sounder learning; but the example of England proves that a severer system of exclusion, forms no security against the inroads of bad men, and the arts of dishonest practitioners. But let it not be forgotten, that the most corrupt and infamous judge that has ever disgraced Westminster Hall,—the detestable and blood thirsty Jefferies,—assumed the gown of the barrister, if indeed he was ever regularly admitted to practice, at the early age of eighteen years, and after an unusually brief period of probation.

It might be well to consider how much could be done to purify the Bar, by an uncompromising sincerity of deport-

ment in those to whom the profession look for guidance and example. I speak not of that moral propriety of personal conduct which scorns meanness and dishonour, but that magnanimity of sentiment and demeanour which would refuse all countenance to the trickster and pettifogger. They should cultivate that true *esprit de corps* which would guard our reputation from the effects of private, much less any public manifestation of regard, where regard is misplaced, because it is unmerited. Affability, when undistinguishing, ceases to be a virtue. The world is influenced by appearances, and when these prove false and hollow, it is either shocked, or falls a victim to the deception. In the one case it loses its respect, and in the other, it receives an injury. The man whose moral sentiments and professional deportment are free from reproach, may learn, by the contacts of the Bar, to connive at serious delinquencies in a fellow member, from the force of pleasing manners or the fascinating influence of agreeable social qualities. The clear moral perceptions of the community, and the conduct of the Bar, may thus come into collision. While the public are ready to consign an unworthy member to the infamy he deserves, his legal brethren may extend to him the hand of cordiality and fellowship, and try to sustain him by every mark of public and private confidence. I would not be understood as recommending the abandonment of a fellow lawyer to an unreasonable outbreak of popular indignation or suspicion; the *esprit de corps* should protect him, at whatever hazard, in the fearless and independent discharge of his functions. I speak not of idle rumour with its thousand lying tongues, its appetite whetted for mischief, and greedy for its victim.

“Fama —————

“Parva metu primò, mox sese attollit in auras,

“Ingrediturque solo, et caput inter nubila condit.”*

Many occasions occur in the course of an extensive practice at the Bar, when, from the blindness of popular prejudice or the easiness of public credulity, a counsel finds himself in situations which may expose him to ruin, without the sympathy and support of his brethren. In the memorable case of the libel against Paine, for that part of his *Rights of Man*, which attacked the English government, Erskine stood forward his intrepid and eloquent defender. All the arts of intimidation were employed to drive him from his purpose. A conspiracy was formed to deprive Paine of the benefit of counsel; but despising promises, and regardless of threats, Erskine was true to that independence of action and integrity of purpose, which should ever characterize a member of the Bar. For this act of disobedience, he was put under the ban and deprived of office. Now that time has mellowed the passions of the moment, we look in vain for their excuse or justification. He was the defender, not of language tending to sedition; not of an inflammatory attempt to excite opposition to law, tumult, disorder or misrule; not of calumnies against the living magistrate; but of a sober effort to bring about the redress of acknowledged grievances, by addressing the universal reason of the nation. He remained under a temporary cloud, but true to himself, and fortunate in the adherence of his brethren, he emerged from the vapour which obscured him, into the brightest sunshine of popular and royal favour.*

The call for withdrawal on the part of the Bar, from the countenance and protection of a colleague, is reserved for cases, not of suspicion founded only on rumour, nor of acts performed under a delusive but honest sense of duty, but of unquestioned and indubitable dishonour. In such cases, it may be gravely contended, without the imputation of harsh-

* Vide Note 2.

ness, that it is not only the *right* of each member, as *amicus curiæ*, to institute a proceeding, but the *stern duty* of the body to promote and sustain it.

It is an error of an opposite nature, and one that argues not only a want of self-respect, but of *fidelity to one's profession*, to detract from, or grudgingly yield the palm of merit to a deserving compeer. Want of equal success sometimes unconsciously sours into asperity our feelings towards a man, whom we might otherwise regard with the warmest sentiments of friendship and admiration. It is a quicker and an easier task to demolish the fabric which it required years to construct, than to build up another by its side; and, however repugnant to propriety and honour may be the fact, and humiliating to our pride may be the admission, it cannot be doubted, that there are men who prefer depending for their advancement more upon the adroitness with which a competitor can be humbled, than raising themselves to the height of fair and open competition. It was one of the maxims of honourable chivalry, that knighthood was disgraced by an attempt to undervalue the honest fame of an enemy or a rival. The world is censorious enough to dwell with complacency upon ill-natured recitals of professional miscarriage, and surely he proves recreant to his order, who will minister to tastes so unwholesome and depraved. Instead of looking with spleen or envy, upon a prosperity which, unable to equal, he would insidiously destroy, it would be well to raise his eyes to the level of the character he dislikes, and attuning his mind for the effort, mount up, like the blaze of the emulous lamp, to the object above him.

An opinion prevails, that the reading of the lawyer cannot stray, with safety, from the beaten track of his profession. A sentiment of this kind is so inimical, in its spirit, to the genius of the age, and so injurious in its practical

tendency, to the public and the profession, that so opportune an occasion as this, should not be omitted to present and expose its fallacy.—The law is not only a learned, but a *liberal* profession; and the lawyer, of all men, should elevate and fortify his principles by various and enlarged studies, against the insidious temptations to which he is on every side exposed.—“The sparks of every science,” says Finch, “are taken up in the ashes of the law.” How dark and bewildered we should grope our way, without a more certain and satisfactory guide, than these sparks can furnish? * “Your mere lawyer,” says Mr. Warren, in his *Law Studies*, “is a pettifogger.” He seldom distinguishes between principle and *technicality*;—the latter of these, according to Lord Kaimes, invariably leading to corruption and depravity. He who thus observes the *outside*, instead of advancing into the penetralia of the temple, is as partial in his scope of observation, as the underworkman, so felicitously described by Dean Swift,—and confining himself to the outworks, is a stranger to the grander conceptions which would be inspired by the amazing extent and beautiful proportions of the interior and principal structure.

Liberal studies are necessary to counteract the circumscribing and benumbing influences of a professional addiction to law. The man who devotes himself exclusively to its details, becomes as pitiable in his helplessness as the blind or hood-winked mill-horse, unsuited for every purpose but the round he is accustomed to travel, and only fitted for that, by the appliances which confine him to his circle. Too strict an adherence to legal forms cramps the energies and contracts the mental vision, rendering it acute in the perception of immediate objects, but, by disqualifying it for a wider range, lessens the sphere of its observa-

* Vide Note 3.

tion. Lawyers in this, as in all free countries, are called upon to guide the helm of state; and surely he is a worse pilot than the heavy-eyed Palinurus, who, accustomed only to view the nicely adjusted machinery of a clock through a microscope, cannot, in the distance, descry the thickening tempest in the speck which floats on the horizon.

We sometimes hear the lawyer derided, who steps aside from his profession to mingle with the world, in the attractive departments of literature and benevolence. Believe that though the law is a jealous mistress, no lawyer is less qualified to be her humane and enlightened votary, by mixing in scenes which allow play to the imagination, and give impulse to the best emotions of the heart. It is important that he should be made acquainted with other men and things, than law and lawyers; it is his duty, to cultivate an expansive philanthropy, and extend a helping hand to all the moral institutions of the age. It was to such men, that the jurisprudence and philanthropy of England are indebted for their regenerated spirit and upward movement. Bentham, whose *originality* as a legal reformer, is greater perhaps than Justinian, Alfred or Napoleon, was a man of diversified and general knowledge. Without bloodshed, temporary misrule, or the anarchy attendant on important changes, he has brought about the greatest revolution, the most extensive and valuable reforms, which have ever been witnessed in the annals of mankind. Dumont, Mackintosh, Brougham, Romilly, Wells and others, his distinguished coadjutors, were spirits whose intellects were not more enlarged by various research, than their hearts were adorned, and affections purified by the truths of religion and philosophy.

Though Bentham may justly be deemed the greatest benefactor of legal science, of this or perhaps of any age, let it not be understood that I commend the adoption of all

his doctrines. His *Rationale of Evidence* is a wonderful specimen of research, and for the most part, of just, comprehensive and luminous reasoning. But in the troubled whirlpool of agitated opinion in England, he could not escape from the leaven which was fermenting the mass. His arguments are often carried beyond the bounds of truth and logic. In the language of Brougham, he is apt "to push his discussions to the uttermost, and to strain his principles till they crack." The American lawyer, while he marks and imitates his spirit, will avoid his mistakes; he will seek the true shrine of practical improvement, and not yield himself blindly to the genius of innovation, that giddy and delusive phantom, whose aims are as unsubstantial as her behests are visionary. He will not swell the headlong and turbulent stream, which, boiling from the very bottom, pours over its banks; and instead of diffusing fertility and beauty, exhibits a scene of sad and wasteful desolation. He will learn the practice of other codes than his own, he will study those principles of eternal justice upon which enlightened law must be founded;—for ignorant of these, he is without the light of comparison, and lives and dies the inflexible and determined enemy of change.

A man when entering his profession, should reflect upon the enlarged sphere of obligations which his position has contracted, that there are duties which he owes to the Bar as well as to himself.—Professional integrity requires, in the first place, that he should possess all the learning of his art, that his legal knowledge should be profound and exact, in order to direct his client wisely.* He will be distinguished, not only for the assiduity necessary for this, but for honour, sincerity and truth, in all his relations with the client, the court, the Bar and the community. If sincerity

* Vide Note 4.

be loved in the common intercourse of life, how desirable to find it in a counsel into whose ear has been poured perhaps the confidential breathings which have been withheld from every other mortal! In the rude ages of chivalry, veracity was esteemed a cardinal and indispensable virtue, and without it, the dignity of knighthood attracted to its possessor only the contempt and infamy of his order. Of all the detestable properties, for which a man of liberal aspirations may be known, is falsehood, a vice equally impolitic and base. But on the other hand, how noble a consciousness does he enjoy, how proud a niche does he occupy in the hearts of his fellow men, whose lips have never been polluted with untruth, and whose promise, without the sign manual to attest its nature, has always been scrupulously, and to the letter, redeemed!

Next in importance to these, perhaps upon the community and himself, is promptitude in the discharge of professional business. *Neglect* on the part of the barrister, is an imputation as often made, and a grievance as extensively felt, as “the law’s delay” and the uncertainty of its ultimate decisions. Voltaire said, “he had been twice ruined; once when he lost a law suit, and once when he gained one.” The excellent motto of Sir Matthew Hale, “*festina lente*,” was inscribed upon the head of his staff, and his judicial industry, and admirable resolves, attest its value as a guide. “Slow, but sure,” was the favourite maxim of Lord Eldon, whose balancing mind and habitual caution, held suitors in suspense, till sometimes, from “the hope deferred which maketh the heart sick,” they are said to have died of grief and vexation. Millions of pounds sterling were locked up in chancery awaiting his tardy deliberations, to the ruin of estates, and the distress and impoverishment of families. If his distinguished successor on the woolsack, had emulated Eldon in the soundness of his law, as he excelled him in

the despatch of equity business, Brougham's reputation, as a jurist, would stand upon a lofty eminence. But no man is a safe counsellor who speaks when he ought to meditate, and a swift judge is a public calamity. The whisperings of sloth, on the other hand, should be silenced by the voice of honour and the dictates of integrity, whose primary lesson enjoins an *instant* obedience to its call.

The lawyer, in full practice, who faithfully and conscientiously performs his duty, passes a life of thoughtful toil, which it is not easy for an uninitiated public to appreciate. His gains are sometimes believed to be more than an equivalent for his labour. But the ordinary fees of the counsel are incomparably less in amount, than in many departments of life, in which, though less labour is bestowed, and to which inferior qualifications are sufficient, the remuneration is by no means thought to be disproportioned to the skill and responsibility. In a majority of cases, every one must not only be the best, but the *exclusive* judge of the value of his own services; but still there are certain received rules to which all honourable men will adhere.—A compensation, dependant upon the event of a controversy, has been condemned as liable to many objections. These contracts may certainly lead to deception and abuse; but on the other hand, they may be mutually convenient and beneficial to the client and counsel. The suitor may be either unable or unwilling to repay the exertions of a counsel in any other mode, and is the latter therefore to reject what, in the line of his profession, may confer a benefit? But an honourable man will not avail himself of that superior knowledge which he must possess over his client, in fixing the principle of compensation. The contracting parties seldom stand upon equal ground. The counsel, perhaps aware of the comparative ease with which the rights of the suitor can be enforced, may dictate unreasonable terms, which the ignorance or necessity of the

latter only could induce him to accept. It is related of Topping, an English lawyer of celebrity, that a larger sum being tendered to him as a retainer, in an important cause, than was customary, he indignantly refused it, upon the ground, that the surplus either implied an unwillingness to do what was right, without a perquisite, or that he was expected to perform more than his duty—an alternative which he treated with scorn.

There is one faculty of the mind, to which I beg leave to call your attention as nearly connected with integrity of character, and upon the cultivation of which the happiness and usefulness of a lawyer materially depend. It is the cultivation of the temper. In the ordinary routine of professional business, in the official intercourse of the Bar, in the duties of the forum, all experience will tell how necessary it is to preserve the temper calm and unruffled, amidst a thousand circumstances, which are perpetually occurring to try it. Clients may be exacting, opponents unreasonable, the demeanour of the judge may be disagreeable, or his decision unsatisfactory, the jury may have decided hastily or from misconception—these are among the numerous causes of vexation, which a lawyer may meet with, in his daily walks, and which, without the exercise of that philosophy which “ruleth the spirit,” may cloud and embitter his whole journey. The impetuosity of Coke, the irritability of Tenterden, and the occasional dogmatic violence of Ellenborough, scarcely more alienated their cotemporaries, and diminished the lustre of their judicial renown, on the bench, than it has affected the deliberate estimate of their characters with posterity.* With what upbraiding remorse must a passionate man look out upon the world whose green

* Vide Note 5.

spots of friendship, love and esteem he has transformed into a desert! He is forced to exclaim,

“The thorns which I have reaped, are of the tree I planted:
They have torn me, and I bleed!”

The Academy will not, I am sure, charge me with a desire to become its moral Mentor, when, as an old member, I take the liberty of presenting considerations which I cannot but view as important in the formation of the legal character. There are one or two reflections, gentlemen, which, I must still, however, press upon your notice. One is, that let the intellectual character be what it may, no matter how elevated and superior, if it want integrity, these endowments will be regarded as nothing, except to heap accumulated odium upon their possessor. The other is, that in the season of ingenuous youth, when all the impulses of the heart are usually generous and noble, and little has occurred to disturb or chill their genial flow, if the moral sensibilities be so blunt as to permit a departure from the principles of integrity, manhood, which brings with it greater coldness and stronger temptations, must be crowned with misery and dishonour. The effects of idleness may be retrieved; assiduity, inspired by the enthusiasm of an ambition which circumstances had checked or concealed, may repair the breaches of indolence. But let the cold steel of insincerity, falsehood, dishonour, enter, at that period of life, into the soul, and the vitality of a better principle is irrevocable; the virtuous spark, it may be feared, is dead forever.

In glancing over the pages of juridical biography, we are struck with the justice of the world in overlooking the greatest talents, when they are not joined to a virtuous life. Witness the case of Sir Francis, afterwards Lord Bacon, described by Pope, as the

“Greatest, wisest, meanest of mankind.”

who, though so eminently endowed, and excelling so much in varied accomplishments, his illustrious rival, is nevertheless seldom mentioned but in terms of reproach and disparagement. Bacon once, perhaps only once in his life, uttered the real sentiments of his heart. He has revealed, in these few words, the secret of his policy, the instrument of his promotion. “Not *too much*,” says he, “of the *honest*, is a property conducive to *fortune*.” The Lord Jefferies is only remembered as the supple and sanguinary tool of a bad king, and as the execrable judge who could insult and triumph over Baxter, and browbeat, convict and execute such men as Russell and Sidney. The means which these two men employed to attain seats of eminence and power, are expressively sketched in a single line;

“Meanness which soars, and pride that licks the dust,—”

the one successful by ductility and sycophancy, and the other rising by his rottenness from the bottom of the stream of life.

Turn from such examples as these, to the inflexible honesty of Coke, the self-denying independence of Mansfield, the unsullied and unambitious virtue of Wilmot, the honest pride and benevolent sensibilities of Blackstone, the pure religion and energetic philanthropy of Romilly, and a multitude of others of only inferior celebrity. The virtues of these men can never be forgotten; and so genial is their effect upon the memory of their greatness, that so far from being eclipsed, it must continue to live by an union with a principle, alike co-existent and conservative.

Of Coke, it is enough to say, that with all his defects, he stands out in such high relief, as a man of integrity, that now, having outlived the petty arts by which Bacon assailed him, the majesty of his intellect shines forth with unclouded lustre

in his works, which promise to endure until the great foundations of British law are broken down and destroyed.*

The character of Murray, afterwards Mansfield, presents to the lawyer, a proud subject of study and imitation. Though he has raised one branch of the law at least, which he found in elemental chaos, into the dignity of consistent science; though he has impressed upon the principles of general jurisprudence, much of his own wise and penetrating spirit; though he graced Parliament with an oratory, as effective and popular as the eloquence of Pitt;—with all these to embalm him in the perpetual remembrance of the lawyer and statesman, yet his public and private virtues, his signal integrity, and noble independence, will be the means of securing for him a deeper love, a prouder immortality. His contempt of “the huzzas of the crowd,” of that popularity “which is run after,” and the manly sensibility with which he looked forward to the applause of after times, to the page of impartial history, when truth should triumph over delusion, must challenge the sympathy of the enlightened and generous part of mankind. Menaced with the violence of an indignant mob, he nobly performed his duty, *ruat cælum*, as he said, regardless of the frowns of power and the turbulence of popular commotion. It may be truly said, he had

“A soul
That spurned the crowd’s malign control,
A firm contempt of wrong.”

With all the objections which captious men have raised against Lord Mansfield, in common with other eminent jurists, for attempting to give to the court, and not to the jury, the question of “libel or no libel,” and maugre some

* Vide Note 6.

alloys from which humanity can scarcely be exempt, he stands a monument of genius and virtue, an assertor of human freedom, and a benefactor of legal science.

One of those remarkable men, of whom, perhaps, the present age is not very prolific, is Sir Eardley Wilmot. This eminent personage united, in an extraordinary degree, the talents and learning, the sincere piety and scrupulous honour, which fitted him for the highest judicial station, with the modesty which made him shun all eclat and distinction. Averse to place or preferment, his cotemporaries frequently thrust upon him situations of dignity and emolument, without his consent, and in opposition to his wishes. He was made a puisne Judge of the King's Bench, in despite of a sincere and earnest remonstrance against it, and thence was promoted to the Chief Justiceship of the Common Pleas, in the face of as vehement a protest as his gentle nature and the silencing voices of his friends would permit. Twice offered the Great Seal, he steadily and firmly declined it, preferring the blessings of retirement and the calm virtues of private life, to the allurements which its acceptance held out to ambition. "Bread and water," said he, "are nectar and ambrosia, contrasted with the supremacy of a Court of Justice."—When he accepted the Chief Justiceship of the Common Pleas, that humble dependence upon God for aid which was the ruling principle of all his actions, appears in a letter to his son. "Now, my son," says he, "I will tell you a secret worth knowing and remembering: the elevation I have met with in life, particularly this last instance of it, has not been owing to any superior merit or abilities, but to my humility, to my not having set up myself above others, and to an uniform endeavour to pass through life void of offence towards God and man." Again he writes, "I do not in the least doubt but you will second my endeavours to cultivate your mind,"

and principally to impregnate it with those principles of honour and truth, which constitute a gentleman; and however fortune may exalt or depress you in the world, the consciousness of having always acted upon those principles, will give you the only perfect happiness that is to be found in this world. Whether my heart be full of joy or grief, it will always beat uniformly with unremitting wishes, that all my children may be more distinguished for their *goodness*, than their *greatness*." Filial piety has bequeathed to mankind a faithful and affectionate tribute to the memory of this great and good man,—a memory which must ever be cherished by his descendants and all posterity with sentiments of lively and grateful love.

The literary attractions of the Commentaries on the Laws of England, dispose mankind, according to the influences which operate on the human heart, either to believe any thing that is favourable or the reverse, in the character of the distinguished author. It is a matter of regret, that his professional and social career, has not been more minutely delineated, as it would be gratifying to all, interested in legal biography, to follow so illustrious a penman from the retired haunts of his study into the exciting scenes of debate, in the forum. It appears an ill elocution retarded his early advances, but his intrinsic worth and elevated bearing, are shown in a single incident, which has been fortunately preserved. Being recommended by Mr. Murray, afterwards Lord Mansfield, to the Duke of New Castle, to fill the vacant chair in the University of Oxford, the Duke willing to try how far he could depend upon the flexibility of his nature, or the easiness of his principles, observed to him, that "in case of any agitation in the college, he presumed he might rely upon Mr. Blackstone's exertions in behalf of government." "Your Grace may be assured," said Blackstone, "that *I will discharge my duty in giving*

law lectures, to the best of my poor ability.” “And your duty in the other branch too?” added the Duke. A silent flexion of the body was the only rejoinder. A few days after, Dr. Jenner was promoted to the vacant chair. But the disappointment of Blackstone, was nobly revenged by his subsequent election to the Vinerian professorship,—a station, which the elegant genius displayed in his lectures, has adorned and immortalized.

Sir William Blackstone, if he had not written the *Commentaries*, has vindicated a claim to high renown for his efforts, in conjunction with Howard and Eden, to reform the prisons of England. The memorable statute 19 Geo. 3, is attributed to his pen, the doctrines of which he asserted through the press, and enforced by means of charges to Grand Juries. If he had performed nothing more than writing the *Commentaries*, he would be entitled to our gratitude for enlarging and beautifying the literary realms of law; but, having added to our debt by his labours in the uninviting field of penal philanthropy, he must live in our hearts, with enduring freshness.

Of all the lawyers of whom past times or the present age can boast, no one can be placed in competition with Sir Samuel Romilly, as a beautiful instance of the abandonment of individual ambition to the promotion of the public good. Learned and able, far beyond the ordinary standard of learning and ability, he looked at office and station as only augmenting his responsibility, and placing in his power the means of more extensive usefulness. Though diffident to a degree, which, for years, threatened to drive him in discredit from the Bar, he overcame the barrier of physical weakness, by the force of his fine intellect and moral susceptibilities, attained a most commanding eminence in the forum, and has inscribed his name, in imperishable characters, high in the blazing scroll of philanthropy. To him

more than to any man who ever lived, amid reproach and ridicule, and surrounded by every form of opposition and discouragement, are the most benign features of the penal code, and many of the best institutions of England, indebted for their existence. Sorrowing, but not disheartened, bowed down for a time, but not dismayed by keen sarcasm, unfounded misrepresentation and unexpected defeat, he reproduced his plans of improvement, year after year, and calmly waited the approach of that hour when public sentiment, having imbibed his enlightened views, and animated by his generous ardour, should be prepared for their adoption. At such a time, he was capable of making the following declaration, in Parliament, a declaration remarkable for the forbearance and elevated spirit which it breathes. "Since the last session of Parliament, I have repeatedly reconsidered the subject: I am more and more convinced of the strength of the foundation on which I stand. * * * I knew that my motives must be occasionally misunderstood by many, and might possibly be misrepresented by others. I was not blind to the road where prudence pointed to preferment; but I am not to be misled from comforts which no external honours can bestow." Again he said, "From the spirit which I have seen, I shall not be surprised, and certainly I will not be deterred, by any vote of this night. * * * It was my lot to hear in Parliament, a negative upon that bill, which was intended to deliver this enlightened nation from the reproach of the cruel and disgusting punishment of burning women alive. It was my lot, again and again, to witness in this house, the defeat of those wise and humane exertions which were intended to rescue Englishmen from the disgrace of abetting slavery. But the punishment of burning is no more, and Africa is free. No resistance, no vote of this night, shall prevent my appealing to the good sense and good feeling of

the legislature and of the country. If I live another year, I will renew this bill, with the bill for repealing the punishment of death for stealing a few shillings; and whatever may be *my* fate, the seed which is scattered has not fallen upon stony ground."

Romilly is represented, by his biographer, as uniting the greatest modesty to the highest merit; as being laborious, but social; as devoted to his profession, but most disinterested in his services to the poor and unfortunate; and in all his conduct, both professional and parliamentary, distinguished for high-minded rectitude and punctilious honour.

Such was Samuel Romilly: a man whose faith, under the guidance of our holy religion, led him to elevated studies and noble acts, and anxious only to assuage the ills of humanity, and to purify it from the taint of meanness and error, he has enrolled himself in that band of great and superior spirits, who have been called, "The salt of the earth,"

"The virtuous few

Who season human kind."

If we go from the illustrious of another land, to the celebrated men of our own, we shall find that the garland of fame is more likely to retain its perfume and verdure from the virtues, than the abilities of its possessor. The purity of character which marked the judicial and social careers of Chief Justice Marshall, of the Supreme Court of the United States,—that great man who may be called *primus absque secundo*; of Judge Washington, of the United States Court for this circuit;—and of Chief Justice Tilghman of the Supreme Court of Pennsylvania; will preserve and brighten, if it does not survive the recollection of their eminent talents and profound learning. Of the lamented William Rawle, late of this Bar, we may emphatically use the fine language

applied by Warburton to Bayle,—that “he had a soul superior to the attacks of fortune, and a heart practised to the best philosophy.” In the noble course of this lawyer, we see much to shield our profession from the injustice of general censure and the stigma of indiscriminate reproach.

To a list, which might be extended by so many additions from the ranks of “the mighty dead,” let me point you to the seats of the living. At the risk of inflicting pain, I must marshal one or two names gathered from the roll of our own records. These gentlemen, having, for the most part, retired from the active struggles of the Bar, no reason exists why we should be silent, when silence is injustice as well to them, as to ourselves. They belong to us and our community. The Philadelphia Bar, who witnessed and participated in their triumphs, may claim to assert the honours of their membership, and the benefits of their living example. It is to the high and unblemished integrity of a Du Ponceau and a Binney, of a Sergeant and a Chauncey, that we are indebted for the acknowledged pre-eminence of the Philadelphia Bar over the Union. In the homely phrase of an ancient legal writer, these gentlemen knew of “what stuff a right worthy lawyer was to be made.” They well knew, that though legal learning and general knowledge were alike necessary for chamber practice and forensic display, yet that without an elevated honour, their reputation, like the Prophet’s gourd, would wither in a night. They knew they would be like a ship at sea, without ballast or a compass, fearlessly exposing herself to the elements, which seemed to waft her to her port, but which were only conspiring their forces for her ruin. They knew, by the unaided exertions of their eminent talents, that “they could rise like the rocket,” but without the sustaining arm of a superior power, “they must fall like the stick.” It is at once a proof of the existence and effect of the principle

which I have feebly attempted to illustrate, that these eminent men, though engaged for a long series of years, in nearly all the important causes which were tried in this city, and though frequently on opposite sides, all the collisions of the forum have not impaired their respect for each other, nor disturbed the intimacy of their early friendship. This certainly is a spectacle worthy of all admiration.—And I am unable to express a higher wish for the personal and professional success of the members of this Academy, than that, like them, they may win a deserved renown for goodness as well as greatness; that in the evening of their days they may find warm hearts in the bosoms of their early friends and co-labourers of this institution; and that honoured themselves, and conferring honour on others, they may descend to the rich blessings of a well spent life.

NOTES.

Note 1, Page 6.—I refer, in the text, to the prohibitions used by Coke upon the proceedings of the High Commission Court, (Vide 12 Rep. 50,) and the manly resistance which he made to the numerous proclamations of James 1st. This monarch, in the first year of his reign, issued thirty-seven of these edicts, most of them illegal, and many of them entrenching upon the authority of Parliament. Wilson, the historian, says, “the people took them for good payment a great while, till the multitude of them lessened their valuation.” (Kennet, Vol. II. p. 667.) As soon as James arrived in England, he issued a proclamation for the apprehension of William and Patrick Ruthven, two of the Gowrie conspirators. This was soon followed by edicts against monopolies; one relating to the making of starch, and another forbidding the erection of buildings in London; commanding the magistrates to pull down those which were erected contrary to the order, to sell the materials, and imprison the workmen. Some of these proclamations aimed at absolute power; such, for example, as tended to alter the law of the land, of which kind there were many. Some denounced penalties for the commission of acts to which no punishment was affixed by law; some related to matters directly rejected by Parliament, just before prorogued; some appointed punishments to be inflicted before lawful trial and conviction; and others contained penalties in the form of penal statutes. Hume, in his history of this reign, has erroneously stated that these royal proclamations had the force of law, asserting that they “were established by uniform and undisputed practice, and *even acknowledged by lawyers*, who made, however, this difference between laws and proclamations, that the authority of the former was perpetual, while that of the latter expired with the sovereign who emitted them.” This declaration seems to be without foundation, except, perhaps that Bacon and the court may have suggested this ingenious gloss to so dangerous a prerogative. The judges, with Sir Edward Coke at their head, delivered the following resolution at the Michaelmas term of 1612, touching the validity of these regal ordinances: “It was resolved, that the king, by his proclamation, cannot create any offence which was not an offence before, for then he may alter the law of the land by his proclamation in a high point; for if he may create an offence where none is, upon that ensues fine and imprisonment. Also, the law of England is divided into three parts: common law, statute law, and custom: but the king’s proclamation is none of them. Also, *malum aut est malum in se, aut prohibitum*, that which is

against common law, is *malum in se*; *malum prohibitum* is such an offence as is prohibited by act of parliament. Also, it was resolved, that the king hath no prerogative but that which the law of the land allows him. But the king, for prevention of offences, may admonish his subjects by proclamation that they keep the laws, and do not offend them, upon punishment to be inflicted by the law; and lastly, if the offence be not punishable in the Star Chamber, the prohibition of it by proclamation cannot make it punishable there." (12 Rep. 74.)

James himself, in one of his proclamations, disproves the assertion of Hume, by admitting the correctness of the opinion expressed by the judges in the above resolutions: "So, although we know that by the constitution of the frame and policie of this kingdom, royal proclamations and ordinances are *not of equal force*, nor in the like degrees with our laws," &c. (Vide Book of Proclamations, p. 235.)

Note 2, Page 13.—It is but just to mention that Erskine, though the advocate of Paine in a prosecution founded upon "The Rights of Man," displayed his detestation of the infidel opinions of this writer, as expressed in his "Age of Reason." He was employed to conduct the prosecution in the case of Williams, for the publication of this notorious book. In the course of his speech, on that occasion, he made the following eloquent profession of his religious faith: "For my own part," says he, "I have been ever devoted to the truths of Christianity; and my firm belief in the Holy Gospel, is by no means owing to the prejudices of education, (though I was religiously educated by the best of parents,) but has arisen from the fullest and most continued reflections of my riper years and understanding. It forms, at this moment, the great consolation of a life which, as a shadow, passes away; and without it, I should consider my long course of health and prosperity, (too long, perhaps, and too uninterrupted to be good for any man,) as the dust which the wind scatters, and rather as a snare than a blessing."

I extract the following narrative of some touching particulars of this case, from Roscoe's *Lives*, &c. It exhibits Erskine in a most amiable point of view, and disposes us to draw a veil over the infirmities which marked a subsequent period of his life. "The prosecution in this case," says Mr. Roscoe, "had been instituted by the 'Proclamation Society,' an association for the suppression of blasphemous and seditious publications, and Mr. Erskine appeared to support it by virtue of the general retainer which he held for the society. Williams was convicted, and on the motion of Mr. Erskine, was brought up for judgment. Between the time of that motion and the judgment of the court being passed upon him, some circumstances occurred which induced Mr. Erskine to suggest to

those who employed him, the propriety of instructing him to state that they were satisfied with the punishment already inflicted on the defendant by his commitment to Newgate. The answer from the society was, that though they did not wish to press for a severe judgment, they did not feel themselves justified in expressing a wish for lenity. This resolution being communicated by the secretary to Mr. Erskine, he declined being further concerned for the society, and returned their retainer. A statement of the circumstances, which induced Mr. Erskine to adopt this unusual step, was many years afterwards communicated by him to Mr. Howell, the editor of the *State Trials*, at the request of that gentleman. The narrative is a very interesting one. "Having convicted Williams, as will appear by your report of his trial, and before he had notice to attend the court to receive judgment, I happened to pass one day through the Old Turnstile, from Holborn, in my way to Lincoln's Inn Fields, when, in the narrowest part of it, I felt something pulling me by the coat: when, on turning round, I saw a woman at my feet bathed in tears, and emaciated with disease and sorrow, who continued almost to drag me into a miserable hovel in the passage, where I found she was attending upon two or three unhappy children in the confluent small-pox, and in the same apartment, not above ten or twelve feet square, the wretched man whom I had convicted was sewing up little religious tracts, which had been his principal employment in his trade; and I was fully convinced that his poverty, and not his will, had led to the publication of this infamous book, as, without any kind of stipulation for money on my part, he voluntarily and eagerly engaged to find out all the copies in circulation, and to bring them to me to be destroyed.

"I was most deeply affected with what I had seen, and feeling the strongest impression that he offered a happy opportunity to the prosecutors of vindicating, and rendering universally popular, the cause in which they had succeeded, I wrote my opinion to that effect, observing, (if I well remember,) that mercy being the grand characteristic of the christian religion, which had been defamed and insulted, it might be here exercised, not only safely, but more usefully to the objects of the prosecution, than by the most severe judgment, which must be attended with the ruin of this helpless family.

"My advice was most respectfully received by the society, and I have no doubt honestly rejected, because that most excellent prelate, Bishop Porteus, and many other honourable persons, concurred in rejecting it; but I had still a duty of my own to perform, considering myself not as counsel for the society, but for the crown. If I had been engaged for all or any of the individuals composing it, prosecuting by indictment, for any personal injury punishable by indictment, and had convicted a defendant, I must have impli-

citly followed my instructions, however inconsistent with my own ideas of humanity or moderation; because every man who is injured has a clear right to demand the highest penalty which the law will inflict; but in the present instance, I was not retained at all, but responsible to the crown for my conduct. Such a voluntary society, however respectable or useful, having received no injury, could not erect itself into a *custos morum*, and claim a right to dictate to counsel who had consented to be employed on the part of the king for the ends of justice only."

Note 3, Page 15.—Dr. Arnott, in his *Elements of Physics*, vol. 1, p. 48, illustrates the importance of physical science to the lawyer, by giving the following amusing anecdote:—"A young and not yet skilful Jehu, having run his phaeton against a heavy carriage on the road, foolishly and dishonestly excused his awkwardness, in a way which led to his father's prosecuting the old coachman for furious driving. The youth and his servant both deposed, that the shock of the carriage was so great as to throw them over their horses' heads; and thus they lost the cause by unwittingly proving that the *faulty velocity was their own*."—Mr. Chitty, in his late excellent work on *General Practice*, gives several instances of almost incredible ignorance in the English Judges. From this work, 2d vol. p. 321, note, I take the following passage:—"It will not be denied that in many cases, it is of the utmost importance, not only that the judge should be of general ability, but also be familiarly acquainted with the subject to be tried, for otherwise he will not be able to explain and observe upon to the jury the facts and law applicable to the case, and a just result will be endangered. Lord Mansfield was celebrated for his great knowledge of insurance and mercantile law, and consequently, whilst he presided, an admirable system of mercantile law, as regarded those subjects, was established. Whilst it is well known that another judge was so entirely ignorant of insurance causes, that after having been occupied six hours in trying an action on a policy of insurance upon goods (Russia duck,) from Russia, he, in his address to the jury, complained that no evidence had been given to show how Russia ducks (mistaking the cloth of that name for the bird,) could be damaged by sea-water, and to what extent." Two ludicrous instances of ignorance of *history*, are related upon good authority. "An Irish barrister, referring to two great events, viz. the obtaining of *Magna Charta*, and the *Bill of Rights*, confounded the sovereigns from whom they were exacted; and a celebrated English barrister, having occasion to quote a statute, and being required to mention the period at which it passed, very gravely replied, that it was 'in the reign of one of the Henrys, or one of the Edwards—but he could not exactly tell which.'" Vide Will. Stu.

and Pra. of the Law, p. 31. History and law are so kindred in their nature, and so connected in their objects, that Montesquieu does not hesitate to say, "Il faut éclaircir l'histoire par les lois, et les lois par l'histoire." Esp. de Lois, l. 21, c. 2.

Note 4, Page 19.—The value of competent knowledge and skill, in a counsel, and the deplorable results of a want of either, may be learnt from a fact stated by Mr. Warren, in his Law Studies, (note, p. 196.) "It is said that the late eminent conveyancer, Mr. Butler, in early life, committed a blunder, in framing a will, which deprived the party whom he was expressly and anxiously instructed to benefit, of about £14,000 a year! It was the omission of *a single word*—'Gloucester,'—that was attended with these disastrous consequences." See this case referred to in *Miller vs. Travers*, 8 Bing. p. 254–5. Owing to the great skill and exact learning necessary for conveyancing, and the awkward blunders which arise from the dearth of these requisites, it is very desirable, for the interests of the public, that a portion of the legal profession should give their attention to this most important branch of jurisprudence. If a body of learned lawyers in Philadelphia, were to addict themselves exclusively to *conveyancing and pleading*, as a separate and distinct branch of practice, it is believed a high benefit would be conferred upon the community. The neglect however of any part of legal science, is dangerous, as it may be attended with the most serious consequences. Witness the following examples, vouched by so respectable a writer as Mr. Chitty. (See Chitt. Gen. Pr., Vol. I. Pref. 8, note (a) 2d ed.) "Recently," says he, "a *common law* barrister, very eminent for his legal attainments, sound opinions, and great practice, advised that there was *no remedy whatever* against a married woman, who, having a considerable separate estate, had joined with her husband in a promissory note for £2500 for a debt of her husband; because he was of opinion that the contract of a married woman was absolutely void, and referred to a decision to that effect, (*Marshall v. Rutton*, 8 T. R. 545,) not knowing or forgetting, that *in equity*, under such circumstances, payment might be enforced out of the separate estate. And afterwards, a very eminent *equity* counsel, equally erroneously advised, in the same case, that the remedy was only in equity; although it appeared, upon the face of the case, as then stated, that after the death of her husband, the wife had promised to pay, in consideration of forbearance, and upon which promise, she might have been *arrested* and sued at law. If, now, the common law counsel had properly advised proceedings in equity, or if the equity counsel had advised proceedings by arrest, at law, upon the promise made after the husband's death, the whole of this large debt would have been paid. But, upon this latter opinion, a bill in

chancery was filed: and so much time elapsed before decree, that a great part of the property was dissipated, the wife escaped with the residue into France, and the creditor thus wholly lost his debt, which would have been recovered if the proper proceedings had been adopted, in the first or even second instance!—This is one of the *very numerous* cases almost daily occurring, illustrative of the consequences of the want of at least a general knowledge of *every* branch of law.”

Note 5, Page 23.—It may be affirmed, that the man who is under the dominion of anger, is, for the time, deprived of reason, and that his language and acts deserve little more respect or consideration than those of the inebriate or bedlamite. Cicero says, “Semper ira procul absit, cum qua nihil recte, nihil considerate fieri potest, nec eis, qui adsunt probari.” What the Roman satirist said of the maudlin Darius, may be applied to the reasoning faculty of the angry man;

“Hic est damnatus inani judicio.”

Seneca, in his celebrated treatise, *De Ira*, speaks of the “irae exitus furor,” and *delirium* is no unnatural offspring of ungoverned passion.

Note 6, Page 26.—It is not attempted to be concealed, that Coke had many faults, the greatest of which, perhaps the *cause* of his private infelicity and public downfall, was his *temper*. An estrangement arose between him and Bacon, which was never reconciled. But the characters of the two men are illustrated by the conduct of each in his intercourse with the other. Bacon, envying the reputation of Coke, did all to undermine it, that meanness, aided by a fertile genius, could suggest. Coke slighted and despised the more elegant accomplishments of his younger rival, and took no pains to suppress the exhibition of his feelings. He was, in fact, too direct and manly in his character, as well as too violent and headlong in his impulses, to exercise a control or restraint in opposition to his sentiments. Roscoe gives the following anecdote: “Bacon presented to him (Coke,) a copy of his *Novum Organum*, with the title *Instauratio Magna*, and containing a device of a ship sailing. Upon the title-page Coke has written,—

‘*Edw. C. ex dono auctoris.*

Auctori consilium.

‘*Instaurare paras veterum doeumenta sophorum,*

Instaura leges justitiamque prius.’

And over the device,—

‘*It deserveth not to be read in schools,*

But to be freighted in the ship of fools,

The volume still remains at **Holkham.**”